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MAY 21 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, DC 20554

Attn: Chief, Common Carrier Bureau

Re: Refund Plan of Roseville Telephone Company
CC Docket No. 93-193, Phase I, Part 2

Dear Mr. Caton:

Pursuant to Paragraph 110 of the Commission's Memorandum Opinion and Order in CC Docket No. 93-193, Phase I, Part 2 (FCC 97-139, released April 17, 1997), Roseville Telephone Company, by its attorneys, hereby files an original and three copies of its Refund Plan. If there are any questions regarding this matter, please contact me.

Very truly yours,



Paul J. Feldman
Counsel for Roseville Telephone Company

PJF/jr
Enclosures
cc: Certificate of Service

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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of)
)
1993 Annual Access Tariff Filings) CC Docket No. 93-193

To: Chief, Common Carrier Bureau

REFUND PLAN

In a Memorandum Opinion and Order in the above-captioned proceeding, FCC 97-139, released April 17, 1997 ("Memorandum Opinion and Order"), the Commission determined that the lead lag study prepared by Roseville Telephone Company ("Roseville") in connection with its 1993 annual access tariff filing contained certain specified flaws, and directed Roseville to utilize the standard 15 day allowance method to calculate its cash working capital for the period in question, and to submit a refund plan with supporting documentation. Memorandum Opinion and Order, paras. 67-70, 107, 110. By its attorneys, Roseville hereby submits its response to the Commission.

For the reasons set forth below, although Roseville disputes the Commission's critique of its 1993 lead lag study, Roseville has decided not to appeal the Commission's Memorandum Opinion and Order since the amount of Roseville's refund, with interest, is comparatively small in relation to the anticipated costs of litigation. While Roseville submits its refund plan, with supporting documentation, in compliance with the Commission's directive, it does so under protest.

1. Background

The above-captioned proceeding commenced nearly four years ago, in June 1993,

when the Acting Chief, Common Carrier Bureau, acting pursuant to delegated authority, suspended Roseville's 1993 access tariff rates for one day, imposed an accounting order, and initiated an investigation into Roseville's access tariff. In the Matter of 1993 Annual Tariff Filings et al., 8 FCC Rcd 4960 (1993) ("Investigation Order"). In its Investigation Order, the Commission designated for investigation the issue of whether Roseville had met its burden of justifying its cash working capital requirement and underlying study in support of its annual access rates. Id. at 4972, 4973.¹ This issue was set for investigation on the basis of allegations by AT&T that Roseville had overstated its cash working capital requirement by approximately \$1.2 million. Id. at 4972.

Roseville submitted its Direct Case pursuant to the Investigation Order on July 27, 1993. No parties, including AT&T, opposed or commented on Roseville's filing, and on September 10, 1993, Roseville filed a Rebuttal.

In its Memorandum Opinion and Order the Commission reviewed the lead lag study prepared by Roseville in support of the cash working capital calculation for its 1993 access rates, and determined that the study contained several flaws. Memorandum Opinion and Order, paras. 67-70. Specifically, the Commission determined that Roseville's lead lag

¹ In its Investigation Order, the Commission also designated for investigation the issue of whether Roseville and other local exchange carriers had properly reallocated general support facilities ("GSF") costs in accordance with applicable Commission requirements. Investigation Order, 8 FCC Rcd at 4973. In its Memorandum Opinion and Order the Commission resolved this issue by directing carriers that participated in NECA's common line pool and filed individual tariffs for traffic sensitive rates pursuant to Section 61.39 of the rules to provide a complete explanation of any rate adjustments they made to prevent double recovery. Memorandum Opinion and Order, paras. 50, 111. The Commission's resolution of this issue is inapplicable to Roseville since Roseville did not file an individual tariff for traffic sensitive rates pursuant to Section 61.39 of the rules.

study was outdated because it used 1989 data; the months studied for individual revenue categories were “not consistent”; that Roseville included in its lead lag study adjustments to prior period data that, “although permitted under NECA’s internal procedures, lead to unreasonable results”; and because Roseville’s computation of income tax lag included delays in the receipt of tax refunds for overpayment of estimated taxes. Id.

To rectify the presumed errors, the Commission required Roseville to utilize the standard 15-day allowance method to calculate its cash working capital, as set forth in Section 65.820 of the rules, 47 C.F.R. § 65.820, and to implement refunds with interest. Id. at paras. 70, 107. The Commission directed Roseville to submit its refund plan and supporting documentation on May 1, 1997, and to implement refunds by lowering its tariff rates over a one-year period from July 1, 1997 through June 30, 1998. Id. at para. 107.

2. Roseville Submits its Refund Plan Under Protest

While Roseville submits its refund plan, as directed by the Commission, it does so under protest, and explicitly rejects the Commission’s critique of its 1993 access tariff filing. In connection with the Commission’s analysis, Roseville notes the following:

- 1989 Data. The Commission’s conclusion that the use of 1989 data was unreasonable is invalid, given the fact that (a) the 15 day standard which the agency directed Roseville to apply was developed on the basis of 1988 data from Class A carriers, and that (b) the 1989 data used by Roseville were representative of how the carrier’s revenues were received and expenses paid, in 1993.
- Time Periods. Roseville’s use of the September-December 1989 time frame

to calculate the Carrier Access Billing revenue lag, and of the April-June 1989 time period to calculate the Other Common Carrier Revenue lag were reasonable since all samples were randomly drawn from the same test year and were representative of the entire year.

- Prior Period Adjustments. As the Commission itself observed in the Memorandum Opinion and Order, “NECA’s retroactive adjustment mechanism allows carriers to adjust their previously submitted data to account for such events as erroneous separations studies, clerical errors, rule changes, and extraordinary accounting adjustments.” Para. 69. These adjustments are part of the normal “pooling process” and there is a 24 month window in which carriers can adjust both cost and revenues reported to the pool. Cash working capital represents the company’s actual lead lag in revenue and expense. These prior period adjustments are part of the actual lag time receipt of revenues. The Commission’s dismissal of Roseville’s retroactive adjustments is contrary to common industry practice and unreasonable.
- Taxes. In its Memorandum and Order, the Commission asserts that “[t]he overpayment of taxes is not a day-to-day cost of doing business.” Memorandum Opinion and Order, para. 70. Payment of estimated tax liabilities by carriers, however, is common practice, and, indeed is mandated by law. If a carrier does not pay estimated taxes based on what is known at the time of payment, the carrier could in fact be faced with penalties resulting

from significant underpayments. The Commission's insinuation that Roseville deliberately overpaid its 1989 estimated taxes in order to overstate its 1993 access charges is plainly illogical and unfounded.

- 59 Day Lag Period. The Commission's objection to Roseville's use of 1989 data is unreasonable given the fact that the standard 15 day allowance method which it directs Roseville to utilize was, to Roseville's knowledge, developed in 1988. In any event, the 15 day allowance does not accurately reflect Roseville's true cash flow lag period.

3. Roseville's Refund Plan

Attached to this document, as required by paragraphs 70, 107 and 110 of the Memorandum Opinion and Order, is a supporting schedule displaying the calculation of the amount by which Roseville's cash working capital ("CWC") allowance in the 1993 tariff year exceeded the standard 15 day allowance method, as required by the Commission. Utilizing the original FCC Part 36 and Part 69 cost study data submitted in its 1993 Interstate Traffic Sensitive tariff filing, Roseville computed this figure by changing its CWC rate from .16348 (59.67 days/365 days) to .04109 (15 days/365 days). The .04109 ratio was then applied to Roseville's total CWC expenses of \$3,218,399. This computation resulted in a change in Roseville's CWC rate base from \$526,144 to \$132,244. Roseville then compared its original revenue requirement of \$4,732,183 to its revised revenue requirement of \$4,658,165 to calculate its base refund.

On the basis of the above methodology, Roseville has calculated its base refund to be \$74,018, with interest on that amount of \$12,967, based on the U.S. Internal

Revenue Service rate of 6.5%² compounded at 6 month intervals from January 1, 1995 through June 30, 1997, as required by the Commission. This refund will be reflected in Roseville's 1997 tariff filing as a direct reduction to its prospective revenue requirement by rate element prior to actual rate calculation.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

By:



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Eric Fishman

Paul J. Feldman

Its Attorneys

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May 1, 1997

² As required by the Commission, this rate is the lowest of the overpayment interests of the US Internal Revenue Service in effect at the midpoint of this investigation, July 1, 1995. See Tax Practice Series Analysis, Tax Management Incorporated, revised April 1997.

ROSEVILLE TELEPHONE COMPANY
CALCULATION OF REFUND DUE TO CHANGE IN CASH WORKING CAPITAL (CWC) RATE

	(a) ORIGINAL COST SUPPORT 1993 FILING <u>@ 59.67 days</u>	(b) REVISED COST SUPPORT 1993 FILING <u>@ 15 days</u>	(c) DIFFERENCE <u>(b - a)</u>
1 Cash Working Capital Expense	3,218,399	3,218,399	0
2 Cash Working Capital Rate	0.16348 (1)	0.04109 (2)	
3 Total Cash Working Capital (L1 X L2)	526,144	132,244	(393,900)
4 Rate of Return	0.1125	0.1125	
5 CWC Revenue Requirement before Tax (L3 X L4)	59,191	14,877	(44,314)
6 Net to Gross Multiplier (for FIT and SIT)	1.6703 (3)	1.6703 (3)	
7 CWC Revenue Requirement including Tax (L5 X L6)	98,867	24,849	(74,018)

Notes:

(1) CWC rate of .16348 is computed by dividing 59.67 days by 365 days

(2) CWC rate of .04109 is computed by dividing 15 days by 365 days

(3) The Net to Gross Multiplier is used to determine the additional revenue requirement needed to cover the associated FIT and SIT liabilities

Roseville Telephone Company

Interest Calculation for Refund Due to Revised CWC Rate

From	To	IRS Rate	93/94	
			Principal	Interest
01/01/95	06/30/95	6.50%	\$74,018	\$2,410
07/01/95	12/31/95	6.50%	\$76,428	\$2,530
01/01/96	06/30/96	6.50%	\$78,958	\$2,585
07/01/96	12/31/96	6.50%	\$81,543	\$2,700
01/01/97	06/30/97	6.50%	\$84,243	\$2,743
Totals				\$12,967

Source:


IRS tax refund (overpayment rate) taken from the Table of Interest Rates by Tax Management, Inc.
(1997 table of interest rates for large corporate overpayments exceeding \$10,000)

CERTIFICATE OF SERVICE

I, Judy Ryan, a secretary in the law firm of Fletcher, Heald & Hildreth, P.L.C.,
hereby certify that copies of the foregoing Refund Plan were served via hand delivery
this 1st day of May, 1997 on:

Mr. R. L. Smith
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W., Room 518
Washington, DC 20554

International Transcription Service
1919 M Street, N.W., Room 246
Washington, DC 20554



Judy Ryan